

Serial No. 10/688,668
UTILITY PATENT

Amend. In Resp. to Off. Act. of Feb. 28, 2005
B&D No. TN3305

Amendments to the Drawings:

The attached sheets of drawings include changes to FIGS. 2 and 5B. These sheets, which include FIGS. 1-2 and 5A-5D, replace the original sheets including FIGS. 1-2 and 5A-5D.

Attachment: Replacement Sheets

Serial No. 10/688,668
UTILITY PATENT

Amend. In Resp. to Off. Act. of Feb. 28, 2005
B&D No. TN3305

REMARKS

Applicants have amended Claim 1. Currently pending in the application are Claims 1-5.

The Examiner objected to the drawings because reference numerals "78B" and "78DS" have both been used to designate a baffle. Applicants submit that such reference numerals are accurate as they refer to different baffles, and consistent with the Specification. (See paras. 00129-00130 of the Specification.) Therefore, no drawings changes are necessary on this matter.

The Examiner objected to the drawings because reference numeral "63S" does not appear in the Specification. In response, Applicants have amended FIG. 1 to delete such reference numeral.

The Examiner objected to the drawings because reference numeral "74S" does not appear in the Specification. In response, Applicants have amended the Specification to refer to such reference numeral.

Applicants decline to make any amendments to the drawings as to reference numeral "116" as Applicants cannot locate such numeral in the figures. Applicants request that the Examiner contact the undersigned Applicants' attorney with the appropriate figure information, so that a proper amendment can be made, if necessary.

The Examiner objected to the drawings because the reference numeral "46" in FIG. 5B should be -46- in order to concord with the Specification. Applicants have amended FIG. 5B as suggested by the Examiner.

The Examiner objected to the Abstract for having legal language. In addition, the Examiner noted that "fence 41," "housing 73" and "housing 78M" should be -fence 41F-,

Serial No. 10/688,668
UTILITY PATENT

Amend. In Resp. to Off. Act. of Feb. 28, 2005
B&D No. TN3305

--housing 78--, and --housing 78--, respectively, in the Specification. In response Applicants have amended the Abstract and Specification, as suggested by the Examiner.

The Examiner objected to Claim 1 as the phrase "motor assembly" lacks proper antecedent basis. In response, Applicants have amended Claim 1 to explicitly provide an antecedent basis.

The Examiner rejected Claim 1 as the phrase "the support assembly" lacks proper antecedent basis. In response, Applicants have amended Claim 1 to explicitly provide an antecedent basis.

The Examiner rejected Claims 1-3 under 35 USC § 102(b) as being anticipated by US Patent No. 5,906,538 ("Welch"). The Examiner also rejected Claim 4 under 35 USC § 103(a) as being unpatentable over Welch in view of the admitted prior art of Paragraph 42 of the present specification ("AAPA"). In addition, the Examiner rejected Claim 5 under 35 USC § 103(a) as being unpatentable over Welch in view of US Patent No. 2,691,398 ("Klingens"). Reconsideration and withdrawal of these rejections are respectfully requested.

Claim 1, as amended, calls for a saw comprising a base, a frame assembly disposed on the base, a first rail disposed on the frame assembly, the first rail having a longitudinal axis, a table slidingly disposed on the first rail, the table being movable in direction substantially parallel to the longitudinal axis, a saw assembly disposed on at least one of the base and the frame assembly, the saw assembly comprising a support assembly, a motor assembly pivotably supported by the support assembly, the motor assembly being pivotable about a pivot axis substantially parallel to the longitudinal axis, and a cutting wheel driven by the motor assembly, the cutting wheel having a plane substantially parallel to the pivot axis, and a switch electrically

Serial No. 10/688,668
UTILITY PATENT

Amend. In Resp. to Off. Act. of Feb. 28, 2005
B&D No. TN3305

connected to the motor assembly and disposed on the support assembly so that, when the motor assembly is pivoted about the pivot axis, the switch remains stationary.

The Welch saw has a motor assembly being pivotable about a pivot axis which is perpendicular to the longitudinal axis of the rail(s). In addition, Welch discloses a cutting wheel having a plane perpendicular to the pivot axis.

By contradistinction, Claim 1 requires (a) a "motor assembly being pivotable about a pivot axis substantially parallel to the longitudinal axis" of the first rail and (b) a "cutting wheel having a plane substantially parallel to the pivot axis." Because Welch does not disclose such arrangement, it cannot anticipate Claim 1 or its dependent claims.

Furthermore, neither the AAPA nor Klingens teach or suggest such missing elements. Accordingly, the combination of Welch/AAPA or Welch/AAPA/Klingens contain all the claimed elements. Therefore, they cannot render unpatentable Claim 1 and its dependent claims.

In view of the foregoing, all the claims are patentable and the application is believed to be in condition for formal allowance. Reconsideration of the application and allowance of Claims 1-5 are respectfully requested.

Serial No. 10/688,668
UTILITY PATENT

Amend. In Resp. to Off. Act. of Feb. 28, 2005
B&D No. TN3305

No fee is due for the present amendment. Nevertheless, the Commissioner is authorized to charge payment of any fees due in processing this response, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted,



Adan Ayala
PTO Reg. No. 38,373
Attorney for Applicants

Adan Ayala - TW-199
The Black & Decker Corporation
701 East Joppa Road
Towson, Maryland 21286
(410) 716-2368